

ATTACHMENT - REMARKS

Claims 1-10, 27-37 and 41 are pending in the present application. By this Amendment, Applicants have amended claims 27-33 and canceled claims 11-26 and 38-40. Applicants respectfully submit that the present application is in condition for allowance based on the discussion which follows.

As an initial comment, Applicants gratefully appreciate the Examiner conducting a personal interview with their representative, Mr. Stephen Weyer, and co-inventors, Mark Norton and Jeremy Stagg, on September 22, 2009. In accordance with that interview, Applicants submit the attached Rule 132 Declaration of co-inventor, Jeremy Stagg, and present the following remarks.

Claims 1-3 and 11-17 were rejected under 35 U.S.C. § 102(b) as being anticipated by Blank et al., "Aroma Impact Compounds of Arabica and Robusta Coffee. Qualitative and Quantitative Investigations" ASIC 14^e Colloque 1991 (hereinafter "Blank").

In accordance with the Examiner Interview, Applicants respectfully submit that Blank does not disclose the claimed coffee composition recited in claim 1, which comprises roast and ground coffee having levels of 3,7-dimethylocta-1,6-dien-3-ol (hereinafter "linalool") of at least 6,000 µg/kg. As presented during the Examiner interview, and further provided by the 37 CFR § 1.132 Declaration of co-inventor Jeremy Stagg (hereinafter "Stagg Declaration"), the amount of linalool naturally occurring in Robusta and Arabica coffee is, at a maximum, around 3,100 µg/kg (Stagg Declaration, ¶ 3). Further, as described in the Stagg Declaration, the inventors conducted an internal study of representative coffee blends of known coffee blends in

order to determine the amounts of naturally occurring linalool in known coffee blends (Stagg Declaration, ¶ 3). Accordingly, the amount of linalool claimed, e.g., at least 6,000 µg/kg, is almost twice as much as the amount of linalool in a naturally occurring coffee blend, namely Ethiopian Sidamo (Stagg Declaration, ¶ 3).

Based on the foregoing, it is clear that the amount of linalool in naturally occurring Arabica coffee is significantly less than the amount claimed. Although Blank discloses that linalool is present in Arabica coffee in an amount more than in Robusta coffee blends, Blank fails to teach or in any way make obvious the amount of linalool claimed. Accordingly, Applicants respectfully request that the rejection to claim 1, and dependent claims 2 and 3, be withdrawn. Further, in view of claims 11-17 being canceled, Applicants respectfully submit that the rejections to these claims are now moot.

Claims 1-7, 9, 11-17, 20, 22-24, 26, 28-33 and 38-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sidoti et al., U.S. Patent No. 4,590,085 (hereinafter "Sidoti"), in view of Boniello, U.S. Patent No. 4,867,992 (hereinafter "Boniello"). In the rejection, it was alleged that Sidoti discloses a process of adding linalool to coffee to enhance the flavor of coffee (citing the Background of the Invention, column 1, lines 38-40), but not to have levels of linalool of at least 25% higher than naturally occurring or the specific concentrations claimed. However, it was alleged that Boniello discloses adding 50 ppm-400 ppm diacetyl to roast and ground coffee (a buttery flavor).

As discussed during the Examiner Interview, it would not have been obvious to one of ordinary skill in the art to add the claimed amounts of linalool to whole bean or

roast and ground coffee. Even if Sidoti, a reference directed to beer brewing, indicates that linalool could be added to coffee, nowhere in Sidoti is there any indication of how much linalool should be added to coffee. Furthermore, in the coffee art, it was known that linalool had undesirable notes and, therefore, one of ordinary skill in the art would not expect that having 25% high or more levels of linalool or the claimed concentrations of linalool, e.g., 6,000, 8,000, 10,000 or 16,000 $\mu\text{g/kg}$, would be desirable (Stagg Declaration, ¶¶ 4-9).

Moreover, although Boniello discloses adding 50 ppm-400 ppm diacetyl to roast and ground coffee, due to differences in flavors, one would not necessarily predict or in any way expect that adding the same or similar amounts of a completely different flavor to coffee would produce a desirable blend. It must be emphasized that for one of ordinary skill in the art to modify a prior art reference in view of another reference, there must be some known apparent reason which would have led one of ordinary skill in the art to make such a modification to arrive at the claimed invention (see, *KSR International Co. v. TeleFlex Inc.*, 550 U.S. 398 (2007)). One such reason would be if one of ordinary skill in the art would have recognized any benefit from modifying the closest prior art. However, nowhere in Sidoti or Boniello, let alone anywhere in the art, is there any indication that one of ordinary skill in the art would have known that there would be any benefit to modifying Sidoti to have the amounts of linalool similar to the amounts of diacetyl disclosed in Boniello. Furthermore, in view of additional art references, such as those noted in the Norton Declaration and the Stagg Declaration, e.g., Flament, "Coffee Flavor Chemistry", Appendix C, Norton Declaration filed March 26, 2009, one of ordinary skill in the art would not have been led to add linalool to

increase the concentration of linalool to 25%, 50% or 100% more than naturally occurring and/or to produce a final linalool concentration of at least 6,000, 8,000, 10,000 or 16,000 $\mu\text{g/kg}$ (Stagg Declaration, ¶¶ 7-9). Further, it must be noted that, although some naturally occurring coffee blends have linalool in amounts of around 3,000 $\mu\text{g/kg}$, at the time of the present invention, it was not known that linalool was a component in coffee which drives consumer liking (Stagg Declaration, ¶ 5). Therefore, prior to the present discovery that linalool drives consumer liking, one would not have attributed a desirable coffee flavor to the amount of linalool contained therein (see, e.g., Stagg Declaration, ¶¶ 4-9). Accordingly, even if one of ordinary skill in the art would have been led to add linalool to whole bean or roast and ground coffee, one would not have been led to add the amounts of linalool claimed.

Based on the foregoing, Applicants respectfully request that the rejection to claims 1-7, 9, 28-33 and 41 be withdrawn.

Claims 8, 10, 18, 19, 21, 25, 27 and 34-37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sidoti, in view of Boniello, further in view of one or more of Marmo et al., U.S. Patent No. 4,311,720 (hereinafter "Marmo"); Sivetz, "Coffee Technology", AVI Publishing Company, 1983, p. 496; Parliament, U.S. Patent No. 4,041,185; Balakrishnan, U.S. Patent No. 6,299,926; or Steinke, U.S. Patent No. 4,698,264. Contrary to the rejections, and in accordance with the remarks above with regard to the rejection of the claims in view of Sidoti and Boniello, Applicants respectfully submit that claims 8, 10, 18, 19, 21, 25, 27 and 34-37 are not obvious for at least the same reasons as discussed above with regard to the rejection of the claims in view of Sidoti and Boniello, as the further cited references fail to make up the

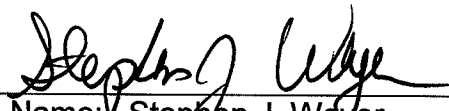
deficiencies of Sidoti and Boniello with regard to the claimed invention. Accordingly, Applicants respectfully request that the rejection to claims 8, 10, 18, 19, 21, 25, 27 and 34-37 be withdrawn.

In view of the foregoing, Applicants respectfully request that the present application is in condition for allowance.

Respectfully submitted,

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Signed By
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